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C O N F I D E N T I A L SECTION 01 OF 02 NAIROBI 001517

SIPDIS

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TREASURY FOR ANNE ALIKONIS

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TAGS: [ECON](#) [EFIN](#) [KCOR](#) [PINR](#) [KE](#)

SUBJECT: KENYA: FINANCE MINISTER TALKS ABOUT CORRUPTION

REF: NAIROBI 1425

Classified By: ECON COUNSELOR JOHN HOOVER. REASON 1.4(B) AND (D).

1. (C) Summary: The kingpins of corruption who fleeced Kenya under the previous administration went about "business-as-usual" with officials in the current Kibaki government, acknowledged David Mwiraria, Kenya's Finance Minister, in a meeting with the Ambassador on March 6. In this regard, the GOK is looking closely at 18 security-related contracts thought to be tainted. Six were completely fraudulent and have been cancelled, some of the remaining 12 will be renegotiated, and it is unclear which if any of the 18 will lead to prosecutions. Of the 18, the contract to purchase a naval vessel appears above board, according to Mwiraria. The Finance Minister is confident badly needed legislation on public procurement and privatization will pass shortly in Parliament. End summary.

2. (SBU) The Ambassador, accompanied by Econ Counselor, met over lunch April 6 with Kenyan Finance Minister David Mwiraria. The meeting came a day after the GOK, in a Kenya Coordination Group (KCG) meeting chaired by Mwiraria for the donor community, had provided a forceful defense of its record in fighting corruption (reftel).

Using All Tools to Fight Corruption

3. (C) The Ambassador thanked Mwiraria for the information provided at the previous day's KCG meeting. He noted the importance of establishing the right legal and institutional framework, and lauded the GOK's emphasis on this framework in the war on corruption. At the same time, he noted the urgent need to "use all the tools at your disposal" in fighting graft, and cited the GOK's decision in 2003 to summarily suspend 50 judges suspected of corruption as the kind of political action that could be taken now to eliminate high-level corruption. He also encouraged Mwiraria to go public with the names of the private sector "kingpins" who had successfully shifted their activities to the new administration when it came to power in 2003.

4. (C) Mwiraria responded by saying "one thing you say is very true:" the networks of corrupt businessmen who had operated so successfully under the previous Kenyan administration had re-established links to the new one and were "doing business as usual." This, said Mwiraria, was the silver lining of the Anglo-Leasing scandals: they opened up the GOK's eyes to the extent of the problem, and action is now being taken. Another structural problem confronting the GOK in rooting out corruption is the fact that below the ministerial and permanent secretary levels, the Kibaki administration inherited essentially the same government, and the same corrupt people and practices, as existed under the Moi government, when graft was rampant.

18 Suspect Deals Being Investigated; Some to be Renegotiated

5. (C) The Ambassador sought clarity on the 18 security-related procurement projects reportedly frozen in the wake of the Anglo-Leasing revelations. He noted that the Finance Minister had in September promised donors that the GOK would undertake "forensic audits" of the suspect deals. Mwiraria revealed that the 18 have indeed been audited by the Comptroller and Auditor General. Six of the 18 deals had been cancelled outright because "we were buying air", i.e. money was being paid, but no goods or services were being delivered. In the case of the other 12, the audits in some cases revealed proper procedures had not been followed; in others that the procedures were followed, but that the price of goods and services had been inflated. The audits have been forwarded to the Kenya Anti-Corruption Commission for further investigation, but it was unclear if any of these cases are among those reported to be ready for prosecution (reftel). Mwiraria said the GOK in some cases will go back to the companies contracted to provide goods and services and seek to renegotiate prices.

Minister Says Frigate Deal is Clean

16. (C) In this vein, the Ambassador urged Mwiraria to scrutinize the GOK's planned purchase of a frigate for the Kenya Navy, noting that the deal had the potential to blow up in the government's face if it is tainted. The deal has been reported in the local press, and was on the list of 20 suspect cases submitted by British High Commissioner Edward Clay to President Kibaki in January. Many observers suspect it was brokered by the same network of corrupt businessmen behind the Anglo Leasing scandals. Mwiraria responded by saying all the information thus far available to him indicates the deal is clean. Kenya Department of Defense (KDOD) counterparts insist the deal followed proper procedures and isn't overpriced, and Mwiraria has seen the paperwork showing that five companies submitted bids, with some offering prices two or three times higher than the one offered by the Spanish shipyard which won the tender. The Ambassador further noted that some view the ship as inappropriate for the Kenyan Navy's mission. Mwiraria disputed this, saying that the Navy had as early as 1996 begun to seek new ships to replace existing but obsolete ones.

Key Bills Likely to Pass

17. (C) On the GOK's legislative agenda, Mwiraria noted the difficulties the administration faced in getting priority bills passed. Just the previous day, he had been forced to withdraw an amendment to the Banking Act meant to liberalize the financial sector in the face of populist sentiment amongst MPs "who want to be able to blame me if interest rates go up." On the procurement and privatization bills, passage of which are conditions for important upcoming budget support credits from the World Bank and the EU, Mwiraria was more sanguine, saying the draft bills had already been vetted once and now incorporated changes requested by concerned MPs. He expects both measures to pass. With the Privatization Bill in place, he noted, it will be possible to bypass the Cabinet and thus easier to quickly privatize burdensome parastatals such as the state-owned landline phone company, Telkom Kenya.

Comment

18. (C) The jury remains out on Mwiraria. Some believe he is complicit in Anglo-Leasing and similar tainted deals. (Note: Mwiraria himself openly admits he signed the paperwork on Anglo-Leasing, but only after he was assured that the procurements were both proper and necessary. End note). The day before our meeting, however, KACC Director Aaron Ringera exonerated Mwiraria of any wrongdoing in the matter and said that if he'd been in Mwiraria's shoes at the time, he would have signed off on Anglo-Leasing too. In private, he is refreshingly frank and open about the challenges and weaknesses faced by the GOK in combating corruption. Whether he is doing enough to address these challenges and weaknesses remains to be seen.
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